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**MONDAY, JANUARY 2, 2006**

COUNTY OFFICES CLOSED – NEW YEAR’S HOLIDAY

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**TUESDAY, JANUARY 3, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Hall, Commissioners Watne and Brenneman, and Clerk Robinson were present.

**Chairman Hall opened the public comment on matters within the Commissions' Jurisdiction,**

[8:41:07 AM](#)

Beau Hanson spoke in regards to his letter requesting to be appointed to the Flathead County Planning Board. Commissioner Hall questioned him as to why he would like to serve on the Planning Board. He stated that he is a fourth generation Montanan and has been looking for something by which he can affect and help Montana. He stated that the planning board is one way he can help the valley and bring in new business, and that he would be opening his own business in the next couple of years. Commissioner Hall then asked if he had ever served on an advisory board before. Beau Hanson stated that he helped out in the Chamber in Tulsa, Oklahoma when he was a production control supervisor down there, and that he had volunteered for that position. Commissioner Hall then asked if he had a vision of what Flathead County should look like in the next twenty years. Beau stated that in the next twenty years his vision would be to bring in tech business, and that tech business is not necessarily exclusionary to the land. He also stated that tech business, in dealing with something in the nature internet or Microsoft, brings in support and developmental business as well with it. He then stated that he look at Bill Gates and he brings his staff to eastern Montana when he used to be part of Microsoft, but being able to influence business like that and being able to offer them opportunities. He stated that he knows that the income tax is a little high right now for large business, but he thinks that a lot of it is the structure of the land and that if you make certain things enterprising for a business they can ignore other things.

**No one else rising to speak, Chairman Hall closed the public comment period.**

**REORGANIZATION OF BOARD OF COMMISSIONERS**

[8:45:16 AM](#)

Members present:

- Chairman Gary D. Hall
- Commissioner Robert W. Watne
- Commissioner Joseph D. Brenneman

Others present:

- Assistant Michael Pence
- Clerk Kimberly Moser

Discussion was held relative to the board organization.

Commissioner Brenneman made a **motion** to appoint Commissioner Watne to act as Chairman for the ensuing year. Commissioner Watne **seconded** the motion. **Aye** - Watne, and Brenneman. **Opposed** – Hall. Motion carried unanimously.

**APPOINT COMMISSIONERS TO VARIOUS BOARDS**

[8:45:32 AM](#)

Members present:

- Chairman Robert W Watne
- Commissioner Gary D. Hall
- Commissioner Joseph D. Brenneman

Others present:

- Assistant Michael Pence
- Clerk Kimberly Moser

Commissioner Hall made a **motion** to Leave the board appointments as is. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman

- Chemical Dependency
- Child Development Center
- Western MT Regional Mental Health Center
- Safe Kids Safe Communities Coalition
- DUI Task Force
- Local Emergency Planning Committee
- Health Department Review Committee
- Western MT Regional Juvenile Detention
- Flathead County Compensation Board
- GPAC
- Flathead Basin Commission
- Northern Tier Interoperability Commission

Chairman Watne

- Flathead County Solid Waste / Refuse Disposal District
- Flathead City-County Health Board
- Flathead County compensation Board
- Road Names & Addresses Committee

Commissioner Hall

- RSVP
- Technical Advisory Committee

AOA  
Transportation Advisory Board  
Port Authority / Flathead Valley Economic Development Authority  
Montana Coalition of Forest Counties  
Flathead County Compensation Board  
Resource, Conservation & Development  
Flathead County Building Committee  
Flathead County Long Range Planning Committee

**MEETING W/ MARCIA SHEFFELS, SUPT OF SCHOOLS**

[9:02:12 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Marcia Sheffels

Discussion was held relative to the work layout of the Superintendents Office, and school closure policies.

**OPEN BIDS: LEGAL: LEGAL ADVERTISING**

[9:12:04 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to take the one bid, submitted by The Daily Interlake in the amount of 80 percent, under advisement. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**OPEN BIDS: PATROL VEHICLES / SHERIFF'S OFFICE**

[9:14:08 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Deb Deist, Wade Herman, Steve Laird

Depratu Ford – for 5 units \$138,109.00

Commissioner Hall made a **motion** to refer the bids to the Sheriff's Office for review. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**PUBLIC HEARING: ROAD ABANDONMENT #434 (PORTION SPRINGDALE SUBDIVISION)**

[9:32:16 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Peter Steele, Jim Burton, Randy Morken, Robert R. Lanfear Jr, Rita Harper, Rev. Bill Harper, Jo Ann Harpley, Chuck Tarpley, Wanda L Frederick, John M Frederick, James Dettmann, Donald Veidt, Laurence W Reid, Inge Mudri, Joel Mudri

Peter Steele gave a brief history of petition.

Jim Burton presented the commissioners with a new map of the proposed road abandonment area.

Chairman Watne opened the public hearing to anyone wishing to speak in favor or opposition.

Randy Morken stated that at the last meeting they talked about the fact that there was not actually a ten foot boundary and he believes that they have proven that. He also presented the commissioners with a new petition list that had 95 percent signatures.

Marcia Fleming stated that she would sign that the petition. She asked about another portion of an alley way asking if it would still belong to the county.

No one else rising to speak Chairman Hall closed the public hearing.

Commissioner Brenneman made a **motion** to approve Road Abandonment #434. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

## **CONSIDERATION OF PETITION TO ANNEX INTO WHITEFISH FIRE SERVICE AREA**

[9:46:23 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jonathan Smith, Peter Steele, Wayne Veeneman, Bert May

Jonathan Smith reviewed the intent of the policy change.

Commissioner Brenneman made a **motion** to authorize the chairman to sign a notice of public hearing regarding the Whitefish Fire Service Area Change. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

## **MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE**

[9:58:49 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Raeann Campbell

Discussion was held relative to 2005 recordable incidents, MSHARP training, and current mediation and litigation.

## **FINAL PLAT: TAMARACK VIEW**

[10:18:09 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Jeff Harris, Rick Breckenridge

Holland reviewed the application submitted by Alan Avery for final plat approval of Tamarack View Subdivision, which will create four residential lots. The site is located off Tamarack Creek Road, approximately ten miles north of Whitefish. Preliminary plat approval was granted on February 23, 2006 subject to 11 conditions. All conditions have been met.

Commissioner Hall made a **motion** to approve the final plat of Tamarack View Subdivision. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

## **PUBLIC HEARING: WHISPER RIDGE PUD**

[10:26:56 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Jeff Harris, Erica Wirtala, Tom Alison, Carolyn Alison, William Hileman, Mark Cahoon, Don Clark, Sandy Cherot, Robert Cherot, Charlie Johnson

Holland reviewed staff report FPUD-05-09.

Chairman Watne opened the public hearing to anyone wishing to speak in favor or opposition.

Erica Wirtala spoke on behalf of Brandy Land LLC. She stated that she hated to start out with a correction, but all of these lots meet the criteria for R-4 lot sizes, and that they are all over 6,000 square feet in size, so maybe Kirsten was reading off the square footage table when she was naming off the acreage versus the square footage table. She stated that what is before the commissioners today is the PUD, which is a planned unit development, and zoning overlay. She stated that this has been master planned for this area by Bigfork Master Plan, and this has been zoned R-4 for many years, so they have anticipated this type of development to be on this property. She then stated that it is similar to adjoining development, and that this development is coming in at a lesser degree of density than what would be allowed if they were to develop the R-4 to its highest of potential. She continued with an example stating that if they were to take that fourteen acres and put the fifteen dwelling units that is allowed with the R-4 zoning district they could potentially have two hundred and ten lots on the property and they are coming in with fifty nine. She then stated that it has been annexed into Bigfork Sewer and Water, therefore there will be fire hydrants placed, and as a condition each home will be required to have an additional sprinkler system in it. She also stated that they felt, with it being on public water and with each home being required to have its individual sprinkler system and the mitigating affect of cutting a cul de sac into it, that some of the fire concerns would be addressed adequately for this type of development. She stated that as a PUD they can come in with requests for relaxed setbacks or relaxations from the subdivision regulations in return for a landscaped design, an architectural plan, and some other assurances that this will be a high quality development to the planning board and to the commissioners. She stated that in addition there is no parkland requirement that you would see with a major subdivision, instead there is a much higher thirty percent of open space requirement, and so that is why the commissioners can see this tremendous area of green scattered around that adds a buffer and visual beauty to both the residents of Whisper Ridge and the surrounding neighborhood.

Commissioner Hall stated that most of this area is unbuildable.

Erica Wirtala stated that is really a spectacular piece of land, and you really would not want to blast out all of those rocks and put a house on there, but retain a wild look in there, and that is why they have chosen to save the area. She then stated that they did have a conversation with Marty Watkins at Fish, Wildlife and Parks, and because they are adjacent to Wayfair State Park, that state park in Bigfork, she said that if they were to put a gate in to allow their residents to utilize, using a trail, it is a two way gate system, and the public would be allowed in and through, and people would be coming in down through here or not gate, and she actually preferred no gate. Erica stated that in their conversation Marty mentioned that there is a gate at Sunset Point and that is open to the public to use to come in and out of. She then stated that at the planning board meeting at the Bigfork meeting there was some discrepancies between the landowners in Sunset Point as to what they thought that gate meant, but that is really irrelevant to this issue here, and she is not sure why the planning board felt that was a reason to deny this subdivision, or to cast to not vote on that, because that is an issue that Fish, Wildlife, and Parks has to work out with the owners of sunset point, and whether or not there is a gate there that is open to the public, whether it is a two way gate or not, just does not have any bearing on what is going on with this subdivision. Erica stated that Marty stated that if they want to put a gate there it is a two way gate, it is open to the public people can come in and out, and she preferred, for liability reasons that they just did not pursue that option.

Commissioner Hall asked what they are going to do then. He asked if they are going to have a walking path between lot 14 and 15. He also asked how anybody, including the landowners in that subdivision gain access to this gated or no gated access to Wayfair's.

Erica Wirtala stated that they are not even going to explore that option of doing that. She stated that they spoke with Marty Watkins before they even designed this, and if a walking gate was possible they would have set aside some easements, and they would have designed a walking path, but when it became a public access issue they shut down the gate idea, and left the whole walking trail idea along. She stated that they did not plan for that in the subdivision.

Commissioner Hall stated that the people in this subdivision have no access to Wayfair's, except for the access on the main road. He stated that it does not seem like very good planning to him.

Erica Wirtala stated that is the way that Marti preferred it for liability reasons, and that they would actually prefer limited access to their state park coming through, she realizes that state parks are great to all Montana residents but this could be out of state residents and they would be utilizing the park, and they would have no means of tacking them for the three dollar a day charge, and it gets to be a really sticky issue for dogs running loose or things like that, so she said to can it and leave it alone.

Commissioner Hall stated that Marty is not there anymore.

Erica Wirtala stated that that is how they arrived at that decision. She then stated that they did ask for a relaxation in the setbacks that impacts seven lots, where they can not meet the twenty foot front and twenty foot rear required setback, and if you go through the Flathead County Zoning Guide you realize that the R-4 is one of the few zones that has a huge twenty foot rear setback in there, and that most of them, as they will see throughout the zoning guide, have a rear setback of five or ten feet, and she does not know why it is called for in an R-4 to have a twenty foot front setback and a twenty foot rear setback so they lose forty feet of their lot right off the bat.

Commissioner Hall asked Jeff Harris if that was addressed in the subdivision rewrite.

Erica Wirtala stated that is not in the Subdivision it is in Zoning.

Jeff Harris stated that it would not be addressed until they get to the zoning.

Commissioner Hall stated that also in this report just on the side corner.

Kirsten Holland stated that in this subdivision the corner setback is whenever, in this subdivision she is not sure if there is a set corner.

Erica Wirtala stated that those are typically with a street and grid system and if you are working with a curvilinear road system like this you just don't have side corner setbacks.

Commissioner Hall stated that he had just noticed that no one had mentioned it but that it is in the report.

Erica Wirtala stated at twenty.

Commissioner Hall stated that it is requested at ten.

Kristen Holland stated that side corner setbacks always match the front setback, because if you are on a street corner, if you have a corner lot, both your front yard and your side yard are considered for visual purposes your front yard, so they always have in their zoning regs that the side corner matches the front, therefore that is why it is viewed that way in the report.

Erica Wirtala stated that the relaxation of setbacks that they asked for in doing a PUD is fairly marginal and only impacted a small portion of the lots. She then stated that the last issue that came up through the planning board was an intersection and the impacts that this PUD may have on Highway 35. She stated, referring to the map, that from this line up, this Sunset Drive is only maintained by MDOT and that from this line back it is a private road owned and maintained by the Sunset Point Homeowners Association. She stated that this is a fairly wide intersection, and that this intersection is problematic, and MDOT has been working on it for quite some time. She stated that the sheet she passed out to the commissioners earlier is the preferred alternative that MDOT has taken through their entire process, and that it was out for public review all during July of 2005, and they incorporated all of the public comments into there alternative selection, and their proposed alternative, whether or not you are on board with this or not, is a four way round about that will take place right at this intersection, and they anticipate that this round about will be able to handle ten thousand vehicle trips per day.

Commissioner Hall asked if this is in the middle of the Highway.

Erica Wirtala stated that yes it is, and that actually they were proposing two of them, because there will be one at this intersection and one at the second dot, so there is a four way one here, and a three way one here. She then stated that the final process on that is to just get a letter from Fish, Wildlife, and Parks to sign off on that, and within the next three to five years start

construction on all of those proposed improvements. She stated that that sheet is 6.9 miles, and it goes from Wood Bay all the way to the north end of Bigfork for a variety of different traffic coming, and they have been working pretty hard on that. She then stated that she has been in fairly close contact with several of the engineers that are working on this alternative for the roundabout, Ed Girth and Fred Bent, and they think that within the next ten to five years they will begin construction on that. She also stated that it was Ed Grith's recommendation from MDOT that they do a traffic impact analysis on this intersection, and in her conversations with him I felt that was fairly redundant. She stated that they (MDOT) have done extensive research, and have been working on this for years. She continued by saying that they have a proposed alternative there, it has been out for public comment, and anything that they would hire a private independent consultant would look at just the impacts of this subdivision on that intersection and would not take in that huge range that they have already looked at and analyzed at great detail, so they felt that would be redundant to ask for a small traffic impact study to be done on that. She also stated that the preliminary plat did not get heard by the planning board, and the Bigfork Land Use Advisory Committee asked about Highway 35 alternatives to be reviewed by the planning staff. She stated that if they have any questions she is here, and the developers are here.

Tom Alison spoke on behalf of the Sunset Pointe Homeowners Association. He stated that they do have some significant concerns with the plans so far, and with all do respect to the lady they are taking issue with a couple issues. He stated that this intersection is not, he does not believe, going to be big enough to handle any kind of a round about. He stated that it is a very critical intersection right now, it is a dangerous intersection, and he would hope that they would at least delay this project until the traffic department has had a chance to work all of this out, because with the traffic that already comes up this road there is going to be some real problems right here, and if you add five hundred and ninety more trips per day at this intersection it is going to become a very dangerous situation. He then stated that the Bigfork Water and Sewer apparently at some point at least two years ago gave a letter saying that they could support some kind of a development in here. He stated that recently they talked to the Bigfork Water and Sewer and they do not believe that they can sustain a fifty nine lot development up on that hill right now without significant improvement in their facilities. He also stated that at Sunset Point all of there water systems can not run at the same time because there is not enough water pressure to support that, and that they stagger their water right now, and that is prior to anything being put in up here. He then stated that the open space that is listed in this area is a very steep and rocky area, and the open space is almost entirely cliff and rock, and because of that runoff Sunset Point is in a situation where they already have ground water issues going on and any kind of work that is done up there going to reduce vegetation which is going increase the runoff problems and it is going to be coming down toward the lake, and that is all going to go right to Flathead Lake. He stated that the issue of the access to Wayfair's Park is that there is a gate there, however the gate is on a road and the road is Sunset Point property.

William Hileman, an attorney with Hedman, Hileman, and Lacosta in Whitefish, stated that he was there on behalf of Brandy Land. He stated that he would give the commissioner a nut shell explanation of the lawsuit, and he might say that he agrees that he does not think that it is relevant, but some it came up here as well as it came up also at the planning board meeting he should probably talk about it. He then stated that the original owner of this property was the Myre Advertising Family and the Myre family entered into a buy sell contract with Brandy Land to sell the property to Brandy Land. He then stated that subsequently Myre entered into a backup offer with Joe and Patty Haster, and by some miscommunication between those parties the closing date for the backup offer was actually set sooner than the closing date on the original offer that existed with Brandy Land. He stated that in order to accommodate the Myre Family and try to avoid any problems Brandy Land went ahead and closed earlier than it had to on the purchase of the property, but because Brandy Land was committed to do this as part of a ten thirty one exchange Brandy Land structured the closing through the realtor Scott Hollinger who than later transferred it to Brandy Land. He continued by saying that Haster sued Myre as well as the realtor and Brandy Land, and the thrust of the law suit was that Myre had breached the contract it had with Haster's by selling it through the realtor to Brandy Land. He then stated that that was the lawsuit in a nut shell. He then stated that it came up at the November 16 planning board meeting, and at that time several of the board members indicated that they did not think it was appropriate or relevant to the issue of the PUD and the subdivision, and he thinks correctly so. He also stated that a couple of the board members seemed to be considered by it and did engage in discussion about it, and in as much as it was a very close vote certainly a couple of people have certainly affected the outcome. He stated that between that November 16 meeting and this meeting, on Friday of last week late in the afternoon, the court issued a partial ruling relative to that lawsuit, and copies of that ruling have been delivered to each of the commissioners this morning, and the court, Judge Stadler, ruled against the Pastors and in favor of Myre Advertising ruling that there was no breach of contract between Myre and the Pastors, so he thinks that resolves the issue even though he does not think that it is something that needs to be addressed there anyway.

No one else rising to speak Chairman Watne closed the public hearing.

Discussion was held relative to the number of lots allowed in R-4, the square footage of the lots, PUD bonuses, setback requirements, runoff issues, and water and sewer hookup.

Commissioner Hall made a **motion** to adopt Resolution 1915 as amended. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### RESOLUTION NO. 1915

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following the publication of legal notice, on the 3rd day of January, 2006, to consider a proposal to approve a Planned Unit Development (PUD) in the Bigfork Zoning District on property zoned R-4 (Two Family Residential);

WHEREAS, the Board of Commissioners did hear public comment on the proposed Planned Unit Development at that hearing;  
and

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the proposed Planned Unit Development to deny the application.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 3.31.020.4, Flathead County Zoning Regulations, hereby conditionally approves the proposed Planned Unit Development (PUD) in the Bigfork Zoning District allowing overlay of approximately 14.049 acres.

BE IT FURTHER RESOLVED that the property to be overlaid is described as Assessor's Tracts 1CAH, and 1C in Section 36 of Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. The property is located on MT Highway 35 just south of its intersection with Sunset Drive, Bigfork, Montana.

BE IT FURTHER RESOLVED that the applicant shall submit a final plan or plat showing compliance with the proposed overlay prior to redesignation of the property as a Planned Unit Development.

DATED this 3<sup>rd</sup> day of January, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Robert W. Watne  
Robert W. Watne, Chairman

By/s/Gary D. Hall  
Gary D. Hall, Member

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By /s/Kimberly Moser  
Deputy

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #441 (PORTION GARLAND LANE)**

[11:27:42 AM](#)

Members present:

Chairman Robert W Watne  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Charlie Johnson

Commissioner Hall made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**NOTICE OF PUBLIC HEARING  
TO CONSIDER  
DISCONTINUANCE  
OF PUBLIC ROADWAY  
NO. 441**

Notice is hereby given that the Board of Viewers have reported to the Board of Flathead County Commissioners on the discontinuance of that certain public roadway in Flathead County, Montana, described as follows:

Portion of Garland Lane to be abandoned:

All that par of Garland Lane in Section 24, Township 31 North, Range 23 West, P.M.M., Flathead County, Montana described as follows:

All of Garland Lane lying easterly of the southeast corner of that tract of land shown and described as a 7.09 acre parcel on certificate of Survey no. 4041, (records of Flathead County, Montana.)

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for **January 19<sup>th</sup> 2006 at 9:00 a.m.** in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 3<sup>rd</sup> day of January, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Robert W. Watne  
Robert W. Watne Chairman

PAULA ROBINSON,  
CLERK AND RECORDER

By/s/Kimberly Moser  
Deputy

Publish on January 7<sup>th</sup> and 14<sup>th</sup>, 2006.

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: PETERSON & JOHNSON ZONE CHANGE / BIGFORK ZONING DISTRICT**

[11:28:44 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Erica Wirtala

Commissioner Brenneman made a **motion** to adopt Resolution 956BW. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

RESOLUTION NO. 956 BW

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, after the publication of legal notice, on the 31<sup>st</sup> day of October, 2005, concerning a proposal to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural) and RC-1 (Residential Cluster);

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Bigfork Area Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 956 BV, dated November 21, 2005) to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural) and RC-1 (Residential Cluster);

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 25 and December 2, 2005, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Bigfork Area Zoning District to change the zoning designation for the area described on Exhibit "A" hereto, from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural) and RC-1 (Residential Cluster), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 3<sup>rd</sup> day of January, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Robert W. Watne  
Robert W. Watne, Chairman

By/s/Gary D. Hall  
Gary D. Hall, Member

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser

Deputy

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: SORG ZONE CHANGE / EVERGREEN & VICINITY ZONING DISTRICT**

[11:30:03 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Kelly Sorg to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-2 (One Family Limited Residential) to R-5 (Two Family Residential).

The boundaries of the area proposed to be changed from SAG-10 to R-3 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from providing for large tract residential development in suburban areas, beyond sanitary sewer and/or water lines, to providing for a residential district with minimum lot areas, wherein development will require all public utilities and all community facilities, and in which two-family dwellings are permitted. Minimum lot size would decrease from 20,000 square feet in the R-2 zone to 5,400 square feet in the R-5 zone.

The regulations defining the R-2 and R-5 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

The public hearing will be held on the **19<sup>th</sup> day of January, 2006, at 11:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

DATED this 3<sup>rd</sup> day of January, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By/s/Robert W. Watne  
Robert W. Watne, Chairman

By/s/Kimberly Moser

Deputy

Publish on January 7 and January 14, 2006.

**SORG  
ZONE CHANGE FROM R-2 TO R-5  
STAFF REPORT #FZC-05-25**

**Location and Legal Description of Property:**

The property is located at 316 Harmony Road and contains 4.87 acres. The property can further be described as follows:

Tract 1:

Lot 18 of Hoiland Day Acres, according to the map of plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

Tract 2:

Lot 19 and 19A of Hoiland Day Acres, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

**AWARD BIDS: GRADER/ROAD DEPT**

[11:32:02 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Ted Gilbertson, Charlie Johnson, Guy Foy

Commissioner Brenneman made a **motion** to accept the bid submitted by Tri State Truck in the amount of \$225,000.00. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**BOARD APPOINTMENTS: FLATHEAD COUNTY PLANNING BOARD, SWAN HILL TV DISTRICT**

[11:35:34 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Mary Sevier

Commissioner Brenneman made a **motion** to appoint Gordon Cross to the Flathead County Planning Board. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Hall made a **motion** to appoint Del Manicke to the Swan Hill TV District. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Hall made a **motion** to rescind the two BLUAC committee appointments. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**CONSIDERATION OF PRINTING BIDS: SHERIFF'S OFFICE**

[11:32:22 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the bid submitted by Great Northern Printing in the amount of \$150.00 for 5,000 business cards. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the bid submitted by American Printing in the amount of \$54.29 for 100 shipping labels. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**FINAL PLAT: RED'S ROOST**

[11:36:59 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Eric Giles, Jeff Harris, Erica Wirtala, Dawn Marquardt, Debbie Shoemaker, Dale Lauman

Giles reviewed the application submitted by Lloyd P Elvin for final plat approval of Red's Roost, a two-lot residential subdivision with a remainder on Angel Point Road. The subject property is 5.29 acres and unzoned. Preliminary plat was waived on February 26, 2003 subject to six conditions. All conditions have been met.

Commissioner Hall made a **motion** to adopt Staff Report FWP-05-19 as findings of fact as amended. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the final plat of Red's Roost. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

### **FINAL PLAT: LONE LAKE ESTATES**

[11:43:59 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Giles reviewed the application submitted by Sands Surveying for final plat approval of Lone Lake Subdivision, which will create four residential lots. Preliminary plat approval was granted on June 22, 2004, subject to nine conditions. All conditions have been met.

Commissioner Brenneman made a **motion** to approve the Subdivision Improvement Agreement and authorize the chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Hall made a **motion** to approve the final plat of Lone Lake Estates. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**1:15 p.m. 911 meeting at the Justice Center**

**1:30 p.m. Commissioner Hall to view Road Abandonment #442 (portion Carver Bay Road) w/ Jim Burton**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 4, 2006.

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## **WEDNESDAY, JANUARY 4, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Hall and Brenneman, and Clerk Robinson were present.

**Chairman Hall opened the public comment on matters within the Commissions' Jurisdiction, no one present to speak, Chairman Hall closed the public comment period.**

### **COS REVIEW: DOWELL**

[9:03:35 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Andrew Belski, Bill Dowell, Patricia L Dowell, Gunner Cesnik, Paul Abel, Tom Sands

Holland reviewed the Dowell Family Transfer request.

The Dowell's explained the purpose of the family transfer request.

Commissioner Brenneman made a **motion** to approve the Dowell COS. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

### **PRELIMINARY PLAT: WHITEFISH HILLS PHASE 3**

[9:14:31 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Tom Sands, Paul Abel, Gunner Cesnik, Jim Burton, Jeff Harris

Holland reviewed the application submitted by Whitefish Hills, LLC and Paula and Shelly Coe for preliminary plat approval of Whitefish Hills Phase 3 subdivision. This proposal will create 22 residential lots southwest of the city of Whitefish. The

subdivision is proposed on 440.01 acres. The property is zoned AG-20 in the Blanchard Lake Zoning District, located west of US Highway 93. There are 17 attached conditions. Staff recommends approval.

Discussion was held relative to the 17 attached conditions.

Commissioner Hall made a **motion** to adopt Staff Report FPP-05-57 as findings of fact and the requested variance. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the preliminary plat of Whitefish Hills Phase 3 subject to 17 conditions. Commissioner Hall **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### CONDITIONS

1. The applicant shall obtain a variance to Section 3.6(B) of the Flathead County Subdivision Regulations for Lots 3 and 4. [Section 7.1, Flathead County Subdivision Regulations]
2. The lots shall conform to all requirements of Section 3.6, with the exception of an approved variance to Section 3.6(B) for Lots 3 and 4. [Section 3.6, FCSR]
3. The private, internal subdivision road will consist of a 60-foot right-of-way and 20-foot paved driving surface and be designed and certified by a licensed, professional engineer. [Section 3.9, FCSR]
4. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7), Flathead County Subdivision Regulations]
5. Road identification signs and stop signs will be installed at all intersections. [Section 3.9(I)(8), FCSR]
6. The applicant will show proof of a completed approach permit from the Montana Department of Transportation for access onto U.S. Highway 93, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
7. Lot owners within the subdivision will participate in the existing Whitefish Hills Road User's Agreement or Property Owners Association for the internal subdivision road, requiring each property owner to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]
8. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
9. The proposed water and septic treatment systems for the subdivision will be reviewed by the Flathead City-County Health Department at the time of development. [3.15(B), FCSR]
10. The applicant will furnish proof that fire suppression and access meet the requirements of the Whitefish Rural Fire District. [Section 3.20, FCSR]
11. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
12. The applicant shall furnish proof of a common mail delivery location approved by the local postmaster. [Section 3.22, FCSR]
13. Unless included in the existing Whitefish Hills Covenants, Conditions, and Restrictions, the following statements shall be placed on the face of the final plat applicable to all lots:
  - a. All addresses shall be visible from the road, and at the driveway entrance or on the house.
  - b. All utilities shall be placed underground.
  - c. This plat has not been reviewed or approved for individual sewer or water facilities.
  - d. Lot owners are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
  - e. The property owners' association or road users agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs and snow removal, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
  - f. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
  - g. Only Class A or B fire rated roofing materials are allowed. [Section 3.21, FCSR]
  - h. Defensible Space Standards shall be incorporated around all primary structures. [Appendix G, FCSR]
  - i. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game is illegal. They are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including:
    - i. Dogs must be kept under owner control at all times.
    - ii. Residents must use bear-proof garbage containers.
    - iii. Remove obvious sources of food.
    - iv. Compost piles are prohibited unless secured by electrical fencing.
    - v. Pets should be fed indoors or food dishes brought in at night.
    - vi. Place bird feeders out of the reach of deer and other big game.
  - j. 

Waiver of Protest

Participation in Special Improvement District

\_\_\_\_\_ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes \_\_\_\_\_ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that \_\_\_\_\_ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. \_\_\_\_\_ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for \_\_\_\_\_ Subdivision.
14. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the

Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]

15. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
16. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
17. The applicant shall perfect access rights pertaining to State Trust Land. [per DNRC comments received 11/30/05]

**PRELIMINARY PLAT: ABEL RANCH**

[9:35:56 AM](#)

Members present:

Commissioner Gary D. Hall  
Chairman Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Jeff Harris, Jim Burton, Paul Abel

Holland reviewed the application submitted by Paul Abel for preliminary plat approval of Abel Ranch Subdivision. This proposal will create 4 residential lots north of MT Highway 82. The subdivision is proposed on 60.693 acres. The property is unzoned, and located off Farm Road. There are 14 attached conditions. Staff recommends denial based on a lack of an overall plan, no cohesive road plan, piecemeal development created through use of exemptions, and potential for additional gravel road without county review.

Discussion was held relative to the planning board concerns, and the recommended conditions.

Commissioner Hall made a **motion** to deny Abel Ranch Subdivision. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**8:00 a.m. Weed and Parks Board meeting at the Weed and Parks Office**  
**11:00 a.m. County Attorney meeting at the County Attorney's Office**  
**1:00 p.m. Commissioner Brenneman to meet with Jim Patrick**  
**4:00 p.m. Commissioner Brenneman to travel to Havre**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 5, 2005.

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**THURSDAY, JANUARY 5, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Hall and Brenneman, and Clerk Robinson were present.

**Commissioner Brenneman to attend the Northern Tier Interoperability meeting in Havre**  
**8:30 a.m. AOA TAB meeting at Eagle Transit**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 6, 2006.

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**FRIDAY, JANUARY 6, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Hall and Brenneman, and Clerk Robinson were present.

**No meetings scheduled**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on January 9, 2006.